JD-63-05
Janesville, WI

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

TNT LOGISTICS NORTH AMERICA, INC.

and Case 30-CA-16801-1

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW), AFL-CIO

Anita C. O'Neil, Esq.
for the General Counsel.
James M. Walters and Jenna S. Barresi, Esqs. (Fisher & Phillips, LLP), of Atlanta, Georgia,
for Respondent.
George F. Graf, Esq. (Gillick, Wicht, Gillick, and Graf), of Milwaukee, Wisconsin,
for the Charging Party.

DECISION

Statement of the Case

MARTIN J. LINSKY, Administrative Law Judge: On April 15, 2004, the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW), AFL-CIO, herein Union, filed a charge in Case 30-CA-16801-1, against TNT Logistics North America, Inc., herein Respondent.

On September 29, 2004 the National Labor Relations Board, by the Acting Regional Director for Region 30, issued a complaint alleging that Respondent since March 22, 2004 has failed and refused to bargain collectively with the collective bargaining representative of its employees about the effects of its closing its facility in Janesville, Wisconsin, in violation of Section 8(a)(1) and (5) of the National Labor Relations Act, herein the Act.

Respondent filed an answer in which it denied that it violated the Act in any way.

A hearing was held before me in Milwaukee, Wisconsin, on April 20 and April 21, 2005.[1]

[1] Respondent's Motion to Correct Transcript, as modified by the General Counsel's Response to the Motion to Correct Transcript, is granted. The audio tapes of the hearing should be secured so that, in the unlikely event this becomes an issue before the Board or Courts, they will be available.

Upon the entire record in this case, to include post hearing briefs submitted by Counsel for the General Counsel, Counsel for the Respondent, and Counsel for the Charging Party and giving due regard to the testimony of the witnesses and their demeanor, I make the following

I. Findings of Fact

At all material times, Respondent, a corporation, with an office and place of business in Janesville, Wisconsin has been a provider of logistic services for manufacturing organizations.

Respondent admits, and I find, that at all material times, Respondent has been engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. The Labor Organization Involved

Respondent admits, and I find, that at all material times the Union has been a labor organization within the meaning of Section 2(5) of the Act.

III. The Alleged Unfair Labor Practices

A. Overview

The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time warehouse, and maintenance employees, and local truck drivers, employed by the Employer within a fifty (50) mile radius, that serves Janesville GM Assembly Plant excluding clerical employees, professional employees, managerial employees, guards and supervisor as defined in the Act.

Since June 30, 1997, and at all material times, the Union has been the designated exclusive collective-bargaining representative of the Unit. From June 30, 1997 to September 4, 2000, the Union was recognized as a representative by Customized Transportation, Inc. (CTI). This recognition was embodied in successive collective-bargaining agreements, the most recent of which is effective November 16, 2000 until November 16, 2004.

On or about September 4, 2000, Respondent purchased CTI, recognized the Union as the designated exclusive collective-bargaining representative of the Unit, and assumed the collective-bargaining agreement between CTI and the Union described above.

Respondent admits that at all times since June 30, 1997, based on Section 9(a) of the Act, the Union has been the exclusive bargaining representative of the Unit.

On December 8, 2003, Respondent learned that its bid to continue performing work for General Motors was rejected and that this work was awarded to a competitor, Logistics Services, Inc. (LSI).

On January 28, 2004, Respondent announced that it was closing its facility in Janesville, Wisconsin due to the loss of its only customer, General Motors, and sent the following letter to the Union.

"January 28, 2004

Mr. Mike Sheridan
President
UAW Local 95
1795 Lafayette Street
P.O. Box 1386
Janesville, WI 53547

Dear Mike:

This will serve to inform you that TNT Logistics North America Inc. is closing its General Motors, Janesville, Wisconsin facility because of a loss of business. As a result, TNT will initiate a permanent layoff. As part of this permanent layoff, the employment of all bargaining unit employees will be terminated effective sixty days beginning the day after receipt of this correspondence. Insofar as this represents a total loss of business, there are no 'bumping rights' in connections with this permanent layoff.

Bargaining unit employees will be eligible to receive their usual pay and benefits under ERISA Benefit Plans prior to date of layoff. If bargaining unit members are enrolled in the TNT's medical, dental, and life insurance plans, coverage under these plans will continue at no additional cost for 31 days beginning the first day of the month following the employees' termination date. Bargaining unit employees will be eligible to elect an extension of group medical, dental, or HMO coverage under applicable law, provided this election is made within 60 days of termination date. If continuation is elected the bargaining unit employees will be responsible for the cost of the coverage.

I regret that this notice of permanent layoff must be given. If you have any questions, please feel free to contact me.

Sincerely,

John D. Webb"

On February 2, 2004, the Union, by International Representative Roger Anclam, requested that Respondent bargain collectively with the Union as the exclusive bargaining representative of the Unit over the effects of Respondent closing its facility in Janesville, Wisconsin.

On Friday, March 19, 2004, Respondent and the Union met to bargain over the effects of Respondent's facility closing without reaching an agreement or bargaining to a good faith impasse.

It is alleged that Respondent violated Section 8(a)(1) and (5) of the Act by failing and refusing to bargain collectively with the Union about the effects of its closing of its plant.

What is effects bargaining? In this case Respondent lost its only customer, General Motors. General Motors decided to switch its business from Respondent to a competitor, LSI.

It is conceded by all the parties to this litigation that Respondent was legally entitled, having lost the work to a competitor, to close its Janesville, Wisconsin facility. The only duty Respondent had under the circumstances of this case was to bargain in good faith with the representative of its employees about the effects of its closing of the Janesville, Wisconsin facility. See, *First National Maintenance Corp. v. NLRB,* 452 U.S. 666 (1981).

Effects bargaining or bargaining for a "closing agreement," as it was sometimes referred to in this litigation, is the duty to bargain about the effects of the closing of the business on its represented employees, e.g., vacation pay, holiday pay, access to 401Ks, severance pay, letters of recommendation for employees losing their jobs, continuation of health or life insurance, etc.

The General Counsel and Union argue that Respondent failed in its duty to bargain in good faith over the effects of its closing of the Janesville, Wisconsin, facility. Respondent argues that it did bargain in good faith.

I find that Respondent violated the Act as alleged in the complaint.

B. Motion in Limine

In its answer to the complaint Respondent pleaded 8 affirmative defenses. The General Counsel filed a Motion in Limine seeking to strike 7 of the 8 affirmative defenses.

I granted the General Counsel's Motion in Limine during a telephone conference call with the lawyers for the General Counsel, Respondent, and the Charging Party on April 18, 2005, two days prior to the beginning of the trial. I gave Respondent's counsel an opportunity to state on the record why he felt the Motion in Limine should have been denied and why he needed the evidence he thought he could produce in support of those affirmative defenses. Respondent did so at the end of his case on April 21, 2005.

Suffice it to say I granted the motion, because the affirmative defenses I struck were not, in my judgment, relevant to the allegations in the complaint.

As noted above General Motors decided on December 8, 2003 to have the work done by Respondent transferred to LSI.

The Union was under no obligation to make concessions in its collective-bargaining agreement with Respondent, which ran from November 16, 2000 to November 16, 2004, so that Respondent could submit a more favorable bid to General Motors in hopes of keeping the work that General Motors decided to transfer to LSI.

C. Discussion

The only time the parties met face to face to engage in effects bargaining was on Friday, March 19, 2004. The meeting lasted approximately 45 minutes. There were approximately 360 employees in the bargaining unit.

At that meeting the Union presented their proposal for a closing agreement. It contained 7 articles and was as follows:

"Due to the permanent layoff and plant closing announced and scheduled by TNT, Inc. of its Janesville, Wisconsin operation, UAW Local 95, Unit #13 is proposing the following as a closing agreement.

ARTICLE I

The Company will provide benefits to all eligible Bargaining Unit employees as outlined in the Collective Bargaining Agreement in Article XVIII, Section 4D.

ARTICLE II

The Company will compensate all eligible bargaining unit employees for current vacation entitlement balances and accrued entitlement balances, under Article XXI, to be paid on the pay checks of March 25, 2004.

The Company will provide a list indicating all such hours for all employees.

ARTICLE III

The Company will allow bargaining unit employees who are 401K participants under Article XIX the ability to access their accounts for the purpose of directing, redirecting, removing or transferring funds at the participant's discretion.

ARTICLE IV

The Company will pay severance pay to all bargaining unit employees based on a formula of 40 hours pay for each year of service and partial years paid at 1/12 (3.33 hours) of 40 hours for each full month.

ARTICLE V

The Company will provide letters of recommendation for the purpose of seeking employment to all bargaining unit employees who request a letter.

ARTICLE VI

Per Article XX Section 3 of the Collective Bargaining Agreement, the Company will compensate all eligible bargaining unit employees for the Good Friday Holiday for 10 hours pay at the appropriate rate.

ARTICLE VII

The Company will comply with Article X Section 3 E and all other provisions of the Collective Bargaining Agreement."

At the meeting on March 19, 2004 Respondent, by its chief spokesman John Webb, claimed that Respondent had essentially no obligation whatsoever vis-a-vis a closing agreement because LSI was a successor to Respondent and the people represented by the Union were not entitled to anything from Respondent. Webb presented a typed record of news accounts from the newspaper and radio that suggested that Respondent's employees would be hired by LSI. Webb also threatened to file an unfair labor practice charge with the Labor Board alleging that

the Union had violated the Act. Webb produced a copy of a Labor Board charge and presented it to the Union at this meeting.

The alleged unfair labor practice the Union allegedly committed was as follows:

> "Since on or about September 22, 2003, the above-named labor organization, by and through its officers, agents and representatives of UAW Region 4, [7435 South Howell Avenue, Oak Creek, Wisconsin 55154; attention: Mr. Roger Anclam, International Representative], and its Local Union No. 95 [1795 Lafayette Street, Janesville, Wisconsin 53547-1386, attention: Mr. Mike Sheridan, President], has failed and refused to bargain in good faith with representatives of TNT Logistics North America, Inc. (TNT), by engaging in the following actions:
>
> (a) Refusing TNT's good-faith request for necessary contract modifications;
>
> (b) Engaging in bargaining with Logistics Services, Inc. (LSI) and its subsidiary Logistics Insight, Inc. (L11) [2929 Venture Drive, Janesville, Wisconsin 53546; attention: Mr. Don Bergquist, Operations Manager] a presumptive successor to TNT, over the terms and conditions of employment for present and former TNT employees not yet hired by LSI/LII, all to the economic and bargaining detriment of TNT."

At the end of the meeting on March 19, 2004, which lasted less than an hour, Webb took the Union's seven article proposal for a closing agreement, said Respondent would cost it out, and get back to the Union.

On Monday, March 22, 2004, three days later, Respondent responded in writing to the Union's proposal as follows:

> "Article I
>
> TNT rejects this proposal as 'not applicable' as no employment loss has occurred as contemplated by federal or state law, the collective bargaining agreement, or any side letters of agreement or understanding thereto that would result in a triggering of the language referenced by the Union in its proposal.
>
> Article II
>
> TNT rejects this proposal as 'not applicable' as no employment loss has occurred as contemplated by federal or state law, the collective bargaining agreement, or any side letters of agreement or understanding thereto that would result in a triggering of the language referenced by the Union in its proposal.
>
> Article III
>
> TNT will allow bargaining unit members who are participants in TNT's 401(k) to access their accounts for purposes of facilitating bargaining unit members' participation in any corresponding 401(k) offered by the successor employer of the bargaining unit members.

Article IV

TNT rejects this proposal as 'not applicable' as no employment loss has occurred as contemplated by federal or state law, the collective bargaining agreement, or any letters of agreement or understanding thereto that would result in the necessity of consideration of such a proposal.

Article V

TNT rejects this proposal as 'not applicable' as no employment loss has occurred as contemplated by federal or state law, the collective bargaining agreement, or any letters of agreement or understanding thereto that would result in the necessity of consideration of such a proposal.

Article VI

TNT rejects this proposal as 'not applicable' as no employment loss has occurred as contemplated by federal or state law, the collective bargaining agreement, or any side letters of agreement or understanding thereto that would result in a triggering of the language referenced by the Union in its proposal.

Article VII

TNT rejects this proposal as 'not applicable' as no employment loss has occurred as contemplated by federal or state law, the collective bargaining agreement, or any side letters of agreement or understanding thereto that would result in the triggering of the language referenced by the Union."

As can be seen Respondent rejected out of hand as "not applicable" all of the Union's proposals for a closing agreement except Article III which would permit employees to access their very own money in Respondent's 401(k) plan. How generous.

The very next day Tuesday, March 23, 2004, Respondent filed a charge in case 30-CB-4907 against the Union with Region 3 in Milwaukee, Wisconsin.

The charge was the same as the charge Respondent threatened to file against the Union at their one and only face to face effects bargaining meeting just four days earlier.

It was not until April 1, 2004 that Respondent and the Union knew how many of Respondent's employees would be hired by LSI. Not all employees of Respondent were hired by LSI, but a majority of 290 out of approximately 360 were hired. Of the 290 hired 30 failed to successfully complete their probationary period with LSI and were terminated.

The Region dismissed Respondent's charge against the Union on June 30, 2004 pointing out, *inter alia* that LSI was a successor to Respondent because a majority of LSI's employees are former employees of Respondent and LSI is performing essentially the same work with the same equipment. And, for the same customer of course, General Motors. However, a *Burns*[2] successor, while obligated to bargain with the Union, is not bound by the terms of any existing collective-bargaining agreement and is free to unilaterally set new terms

[2] *NLRB v. Burns International Security Services, Inc.,* 406 U.S. 272 (1972).

and conditions of employment unless, as found in *Spruce Up Corp.,*[3] that by its conduct the successor has made it "perfectly clear" that it plans to retain all the predecessor's employees as a majority of its own work force, which LSI did not do. And this is true even if, as in this case, there is a clause in the collective-bargaining agreement between Respondent and the Union binding successors as there was in this case.

Under Section 8(d) of the Act neither party to a collective-bargaining agreement – such as Respondent and the Union with respect to the November 16, 2000 to November 16, 2004, collective-bargaining agreement – is required to "discuss or agree to any modification of terms and conditions contained in a contract for a fixed period" if the modification is to become effective before the contract expires or before the matter can be reopened under the provisions of the contract.

George Graf, Esq., is an attorney who has represented the Union for years. He was present at the one and only face to face effects bargaining session on March 19, 2004.

On April 1, 2004, Graf spoke with Respondent's chief negotiator John Webb seeking to get together with Webb to hammer out a closing agreement. Webb never got back to Graf to have such an effects bargaining session or sessions.

Interestingly enough it was not until April 1, 2004 and thereafter that the parties would be in the best position to hammer out a closing agreement, because it was only on April 1, 2004 and thereafter that the parties knew how many of Respondent's employees would be hired by LSI and would, therefore, be eligible for health insurance from LSI after 3 months with LSI. And how many employees not hired by LSI would need letters of recommendation because they would be out of work. As it turned out LSI hired 290 of Respondent's employees. Seventy (70) were not hired and 30 former employees of Respondent hired by LSI did not survive their probationary period with LSI.

The following are the facts: that Respondent met once and only once with the Union for less than an hour regarding a closing agreement; that Respondent threatened to file unfair labor practice charges against the Union at that single meeting; that Respondent promised to report back to the Union after costing out the Union's proposals for a closing agreement; that Respondent, just days later, summarily rejected all the Union's proposals for a closing agreement except the one that would allow employees to access their very own money in Respondent's 401(k) plan; that Respondent just 4 days after meeting with the Union filed unfair labor practice charges against the Union which were dismissed; that on and after April 1, 2004 when Respondent was in the best position to negotiate a closing agreement because it now knew how many of its employees had been hired by LSI Respondent nevertheless failed and refused to meet with Union attorney George Graf to negotiate a closing agreement although requested by Graf to do so. In light of these facts it is obvious that Respondent violated Section 8(a) (1) and (5) of the Act by failing and refusing to engage in good faith effects bargaining.

D. Union Officials' Authority to Negotiate a Closing Agreement

The charging party in this case, i.e., International Union, UAW, AFL-CIO, was the only entity that had authority to enter into a binding collective-bargaining agreement or closing agreement. The International Representative with such authority was Roger Anclam, the

[3] 209 NLRB 194 (1974), enfd, 529 F.2d 516 (4th Cir. 1975).

principal spokesman for the Union at the March 19, 2004, effects bargaining session. On and after April 1, 2004 attorney George Graf had such authority.

UAW Local 95 is an amalgamated local union with 6,000 members broken down into 14 units. Unit 13 was the TNT bargaining unit with approximately 360 unit employees. Local 95 First Vice President Jim Benash was assigned to Unit 13 and Richard Johnson, prior to March 31, 2004, was the Chairman of the Unit 13 Committee. Benash and Johnson were without authority to enter into a closing agreement. Again, it had to be a representative of the International. In this case that would be Roger Anclam or Attorney George Graf on behalf of the International. Dialogue between Webb for Respondent and others from the Union without authority to negotiate a closing agreement does not amount to good faith effects bargaining. In a conversation on or about March 31, 2004 between Respondent's John Webb and Unit 13's Richard Johnson Webb agreed to pay Respondent's employees their accrued vacation pay.

E. Three Grievances

Three separate grievances were filed by the Union during the period between December 8, 2003 when General Motors informed Respondent that it would no longer be doing the sequencing work at its Janesville facility and April 1, 2004 when LSI took over.

Grievance 2416 filed on February 13, 2004 requested that permanently laid off employees receive health insurance coverage pursuant to Article XVIII, Section 4(b) which called for 6 months of paid benefits for permanently laid off employees. By letter dated February 17, 2004, John Webb offered to meet on this grievance. The grievance was never resolved and the permanently laid off employees received the amount of paid insurance Respondent said it would provide in its letter to the Union of January 18, 2004 advising the Union of the closing of the facility, i.e., "31 days beginning the first day of the month following the employees' termination date." This letter is set out in full in Section III A of this decision. The content of Respondent's letter was not good faith effects bargaining but the announcement of a *fait accompli*.

Grievance 2474 filed on March 25, 2004 requested that Respondent comply fully with the provisions of Article 18 (Insurance), Article 20 (Holidays) and Article 21 (Vacations). Grievance was denied by Respondent which took the position it would only comply with the contract between it and the Union up to March 31, 2004 when its operations would be turned over to LSI.

Grievance 2477 filed on March 29, 2004 requested that Respondent continue to provide health insurance for employees hired by LSI for 90 days after their employment with Respondent terminated and for 6 months for those employees not hired by LSI. Respondent denied the grievance consistent with its position at the bargaining session on March 19, 2004, i.e., Respondent's employees should be looking to LSI as a successor for insurance coverage and not Respondent. These employees hired by LSI would not receive insurance coverage from LSI until they had worked for LSI for three months. In its letter dated January 18, 2004 Respondent advised the Union that all employees would get 31 days of insurance coverage after termination as spelled out above when discussing Grievance 2416 and in Section III A, above.

Conclusions of Law

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. By failing and refusing to bargain in good faith with the Union concerning the effects on employees of its closing of its Janesville, Wisconsin, facility, Respondent engaged in an unfair labor practice within the meaning of Section 8(a)(1) and (5) of the Act.

4. This unfair labor practice affects commerce within the meaning of Section 2(6) and (7) of the Act.

Remedy

Since Respondent violated Section 8(a)(1) and (5) of the Act by failing and refusing to engage in good faith effects bargaining the remedy should include a cease and desist order along with the remedy spelled out for situations such as this in the Board's landmark decision in *Transmarine Navigation Corporation*, 170 NLRB 389 (1968). See also, *Sierra International Trucks, Inc.*, 319 NLRB 948 (1995).

The Board in *Transmarine* required that an employer who has unlawfully refused to engage in effects bargaining provide unit employees with a minimum of 2 weeks' backpay. [4] The goal of the limited backpay requirement is both to make employees whole for losses suffered as a result of the 8(a)(5) violation, and to recreate in a practicable manner a situation in which the parties' bargaining position is not entirely devoid of economic consequences for the employer. The Respondent has a duty to bargain over such matters as severance pay, payment of accrued benefits, continuation of health benefits for employees not reemployed by the new employer, etc. Its failure to do so requires that employees be made whole for losses incurred by such failure.

The Respondent argues that a *Transmarine* backpay award is inappropriate in a situation when, as here, most of its employees secured employment with the new employer, and so have purportedly suffered less losses. In the *Raskin Packing Co.,* 246 NLRB 78 (1979) case, the Board in determining that a *Transmarine* backpay award would be inappropriate relied in part on the fact that a successor employer offered employment to all former employees of a closed plant. The Board seemed to rely more heavily, however, on the fact that the former employer had closed the plant in an emergency situation, such that the union was never in a position to bargain over effects, there having been no possible way to bargain over effects before the closing. That is not the case here, the Union having requested effects bargaining on February 2, 2004, two months before the plant closed.

In *Live Oak Skilled Care & Manor*, 300 NLRB 1040 (1990), also a successorship case, the Board declined to address whether the 2 weeks' backpay remedy should be applied regardless of loss to employees, finding that it was not clear that employees had not suffered any loss. The Board found a *Transmarine* remedy appropriate, however, where the union might

[4] The Board in *Transmarine* ordered an employer who had refused to bargain over the effects on unit employees of a plant closure decision to pay the employees at their normal rate of pay beginning 5 days after the Board's decision until (1) an effects bargaining agreement was reached; (2) a bona fide bargaining impasse was reached; (3) the union failed to timely request or commence bargaining; or (4) the union failed to bargain in good faith – whichever event occurred first. Further, "in no event shall this sum be less than these employees would have earned for a 2-week period at the rate of their normal wages when last in the Respondent's employ."

have been able to secure additional benefits for employees. Also in *Richmond Convalescent Hospital,* 313 NLRB 1247 (1994) the backpay remedy was awarded where the union requested effects bargaining "at a time when the Union might have secured additional benefits for employees had the Respondents bargained in a timely manner over effects." In both of these cases, the Board's reference to a time when the union "might have" been able to secure additional benefits clearly refers to the bargaining strength only available to a union when bargaining is timely. Likewise, the reference in *Raskin* to the union's not being "in a position of strength at a time when any bargaining about effects could have taken place" explicitly refers to the previous sentences in that decision, in which the Board found that effects bargaining was not possible at any time previous to the plant closing, making timely bargaining impossible:

> Respondent's failure to bargain about effects here did not occur at a time the plant was still open. Respondent closed the plant in an almost emergency situation, and there was no way to bargain about effects before the closing. Thus, the predicate for the back pay awards in all the cases cited disappears, for the union was never in a position of strength at a time when any bargaining about effects could have taken place.

Similarly, it does not seem necessary in this case to determine the extent of "actual" loss to employees. The Respondent's failure to bargain over the effects of the loss of the business to LSI resulted in the Union's inability to bargain for additional benefits, such as severance pay, and the employees' concomitant loss of these potential additional benefits. The *Transmarine* backpay remedy would therefore be appropriate in this situation, serving to restore the Union's bargaining position to one with economic consequences should the Respondent continue in its refusal to bargain.

Accordingly, the Respondent must bargain in good faith concerning the effects of the closing of its business. Backpay is awarded in accord with *Transmarine*, to unit employees commencing 5 days after the date of the Board's Decision and Order in this case. Backpay is to be computed using the *F.W. Woolworth*[5] calendar quarterly formula, adding interest as required in *New Horizons for the Retarded.*[6]

The recommended Order provides for the mailing of the attached notice to employees which serve to advise the unit employees of their rights and the outcome of this matter.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[7]

ORDER

Respondent, TNT Logistics North America, Inc., its officers, agents, successors, and assigns, shall

1. Cease and desist from

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[5] 90 NLRB 289 (1950).

[6] 283 NLRB 1173 (1987).

[7] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(a) Failing or refusing to bargain in good faith with the International Union, UAW, AFL-CIO, concerning the effects on employees represented by that labor organization resulting from the closing of the Janesville, Wisconsin facility.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Bargain in good faith with the Union concerning the effects on employees which it represents resulting from the closing of its Janesville, Wisconsin facility on March 31, 2004.

(b) Make all employees represented by the Union who were terminated on March 31, 2004, as a result of the closing of the Janesville facility whole in the manner set forth in the remedy section of the decision.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to determine the backpay required by the terms of this Order.

(d) Mail copies of the attached notice marked "Appendix"[8] to the last known address of each employee employed in the unit represented by the Union. Copies of the notice, on forms provided by the Regional Director for Region 30 shall be mailed after being signed by the Respondent's authorized representative.

(e) Notify the Regional Director in writing within 21 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C., August 9, 2005.

_____
Martin J. Linsky
Administrative Law Judge

[8] If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT fail or refuse to bargain collectively and in good faith with the International Union, United Automobile, Aerospace and Agricultural Workers of America (UAW), AFL-CIO concerning the effects resulting from the closure of our Janesville, Wisconsin, facility on March 31, 2004 on our employees in the following appropriate unit:

All full-time warehouse, and maintenance employees, and local truck drivers, employed by the Employer within a fifty (50) mile radius, that serves Janesville GM Assembly Plant excluding clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Federal law.

WE WILL, on request, bargain with the Union concerning the effects on our employees in the above unit resulting from the closure of our Janesville, Wisconsin facility.

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WE WILL pay employees in the above unit who were terminated on March 31, 2004 certain wages, with interest, as provided in the decision of the National Labor Relations Board.

TNT LOGISTICS NORTH AMERICA, INC.

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

310 West Wisconsin Avenue, Federal Plaza, Suite 700
Milwaukee, Wisconsin 53203-2211
Hours: 8 a.m. to 4:30 p.m.
414-297-3861.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 414-297-1819.